FCC Filing – Comments on CG Docket No. 02-278

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NPRM #15, page 12, Discussion Item
Commission is asking for comment on what, if any, legitimate business or commercial speech interest is promoted by calls placed by predictive dialers.

Answer: The vast majority of Melita/eshare and now divine customers in the Teleservicing Contact Centers do not use their predictive dialers for 'cold calling' and/or random calling on their constituencies. The following is a brief list of applications used by our customers in conjunction with their calling campaigns directed towards its EXISTING clients/constituencies:
- lead generation, creating mailing/calling lists of clients interested in specific areas
- updating clients' data base information - keeping information current
- soliciting clients' feedback on various products/services offered
- offering new credit card, debit card types and other finance vehicles
- reminder calls for drug prescription renewals, order pickups, doctors appointments, etc
- promotional calls to clients having requested updates on low cost air tickets, special vacation packages, available rental vacation spots, etc.
- surveys
- reply calls/call backs on customer service call-ins, incoming e-mails, Web call back requests, etc.
- alert calls by electric and gas utilities, ensuring neighborhoods awareness of power outages, gas leaks and other life threatening situations
- personnel dispatch calls for electric, gas, water and other utilities type emergencies
- credit verification, credit collection and credit card fraud type calls
- appointment scheduling, product/service delivery scheduling
- fund raising for non-profit organizations
- blood bank calls for scheduling donation and fulfillment of blood supply
- parents notifications/school truancy of child not showing up for classes
- missing persons neighborhood calls
- nuclear, chemical and biological neighborhood/regional alert calls
- reminder calls
- and many other specialized calling applications unique to the various business needs

NPRM #17, page 13, Discussion Item
Commission is asking for specific comments on call centers to perhaps provide a toll free number and or Web site for 'do-not-call' list entries for customers receiving calls.

Answer: I am a proponent for providing a Web site, where each call center allows its called parties to list themselves onto the 'do-not-call' list. Toll free number will most likely be abused and could cost call centers a bundle.

NPRM #21, page 14, Discussion Item
Commission is asking whether Network Technologies have been enhanced to allow consumers (at their discretion) to avoid receiving unwanted calls. Also, they ask for suggestions on new approaches and technologies and related costs.

Answer: I believe that USA telephone networks are able to deal with the issue at hand in a rather simple way. The technology required to avoid and/or prohibit unwanted calls, faxes, e-mails, etc. is virtually in place today. The following is a recommended solution to this issue:

a) agree on a precise definition for the process of 'Solicitation'.
   Suggested definition: A communication process where the recipient of such communication is not a current client or has requested via a 'do-not-contact' list not be a registered client of the origination (or its official affiliate) company.

b) define a set of special codes that indicate the type of contact being initiated.
   for example; 'solicitation' code for voice calls/phone calls be as #*7654248 (i.e., the word 'solicit'), for other Business calls a code of #*'business' may be displayed, for fax solicitation calls #*329 (the word 'fax'), for e-mail transmission append #*'solicit' at the end of the recipients' e-mail address, etc.

c) mandate to all individuals, businesses, call centers, contact centers and manufacturers of dialers, predictive dialers, fax machines, e-mail originators, SMS text originators, MMS media originators, etc., to include these pre-agreed upon 'special suffix' codes with all solicitation type of communications.

d) for any solicitation phone calls, include the special suffix at the end of the telephone number being dialed as defined under (b) above. For other types of communications, again attach the special 'suffix' codes following the fax number being dialed, e-mail address being sent, etc.

e) require telephone network providers to pass these special 'suffix' codes to the destination party, similar to the Caller ID/ANI and or attach these codes at the end of the Caller ID/ANI digit sequence as currently in use by ALL telephone network providers. Further allow network providers to charge EXTRA for this special service.

f) enhance the Call Blocking equipment via customer self-programming of such codes, asking customers to pay for such capability. Manufacturers of such blocking devices, ANI units, home programmable telephones, cell phones, fax machines, etc., provide for this special 'suffix' entry by consumers desiring call blocking.

This new system of codes will allow consumers to know the type of call coming in and, in the case of an identified solicitation call, to choose whether or not to answer.

NPRM #22, page 15, Discussion Item
Under the discussion of Commission's rules around the SS7 signaling process, Commission is asking if Telemarketers should be required to transmit the name and telephone number and whether should be prohibited from transmitting special code, i.e., *68 in front of the telephone number dialed in order to prohibit recipients of such calls to be able to use ANI/Caller ID call blocking technology.

Answer: As outlined under (2) above, a soliciting business/contact center would now be required to append a special 'suffix' to indicate the purpose of such communication. With such a 'suffix' there will no longer be a requirement for transmitting a name of the business, but still transmit the originating telephone number which can in turn be used to trace such call. It is further suggested that businesses engaged in solicitation/telemarketing communications campaigns not be permitted to transmit the special Call Blocking codes. It is further recommended that NO Business of any type be allowed to transmit such prefix codes, and as such the telephone Network providers eliminate the Call Blocking codes from all business type telephone line installations!!!

NPRM #23, page 15, Discussion Item
Commission is discussing the definition for an 'automatic telephone dialing system', system capable of dialing sequential and randomly generated telephone numbers. Further, Commission is prohibiting such sequential and random dialing systems to call upon a list of reserved types of destinations such as, emergency telephone lines, paging services, cellular telephones, etc. Additionally, Commission is reviewing the current requirement of calling devices that deliver a pre-recorded message stating its business name, telephone number and or address.

Answer: It is recommended that the current requirement STAND as IS for the so called 'auto-dialers', devices that can generate a random list of calling numbers and or can call numbers in a sequential and random order. Further, it is recommended that 'auto-dialers' be allowed for an Emergency Notification calls ONLY, where calling sequentially and or randomly into certain areas could result in an effective area notification goal. As such, it is recommended that all other usage of random/sequential auto-dialers be prohibited. Conversely, auto-dialers with prerecorded messaging, with user pre-programmed calling lists, lists that are verified and maintained current (no emergency numbers, no cell phones, etc.) by the call center business be permitted in its use.

NPRM #24, page 16, Discussion Item
Commission is asking for comments on auto-dialers using a data base to generate its random and sequential calling lists.

Answer: as stated in (4) above, any auto-dialer that generates random and or sequential calling lists, no matter how such list is being created, should be prohibited from use, except as noted above, for an Emergency Notifications use.

NPRM #24, page 16, Discussion Item
Commission is asking if there is a need to refine the definition in its rules to better balance the goal of limiting unsolicited advertising vs. interests in providing beneficial telemarketing services.

Answer: Yes, there is a need for redefinition as articulated in some of the Answers above. Using non-sequential and non-random calling process, whether such calling is done via auto-dialer or predictive dialer should be permitted, as long as calling lists are scrubbed and avoid calls to the reserved lists (emergency numbers, paging services, hospital/health care patient rooms, etc.) and these transmit a 'suffix' code describing the contact type. It needs to be noted that specific calls to cell phones should be permitted as long as the recipient is a customer of the service provider (or its designated affiliate) and has not requested to put their cell phone number on the 'do-not-call' list.

NPRM #26, page 17, Discussion Item
Commission asks for further comments on Predictive Dialers use and limits.

Answers:
a) Yes, Predictive Dialer is a form of an auto-dialer, but with distinct differences and purposes of use. Predictive Dialers do not random call and do not generate sequential calling lists. As such, these should NOT fall under the same TCPA's rules as the auto-dialers.

b) Predictive Dialers (unlike auto-dialers) must be allowed to call cell phones, as these are simply contact places where customer desires to be reached at

c) Commission MUST NOT prohibit Predictive Dialers from calling on existing customers! Whether banks call to collect on debt, utilities call to collect payments or inform clients about emergencies, insurance companies to renew policies, IRS to collect taxes, politicians soliciting their constituency for votes, schools to inform parents on children's status, emergency centers dispatching crews, police and security authorities calling upon neighborhoods to assist in locating missing person and or criminals at large, etc., etc.- all these and HUNDREDS more critical applications are used every day to help save lives and live a better and more secure life

d) as stated in answers above, Predictive Dialers are absolutely needed in today's mixed bag of communication types. Voice/telephone communication is critical today, and Predictive Dialers provide for such personal conversations between businesses and customers. Unlike auto-dialers which deliver pre-recorded messages, Predictive Dialers connect and bring people closer together. They provide for human to human conversations which can ONLY result in a better future for all concerned.

As suggested under section 2, (a) through (f), adding a 'suffix' code after the dialed number will allow call receiving party to INSTANTLY know if such incoming call is a SOLICITATION call or a Business call. The receiving party can decide whether to answer or not. If they answer this call, there may be silence for a brief moment as the operator is being connected, but the recipient will at least know the status of the incoming call, as such 'suffix' codes will ONLY be permitted (passed through by the telephone network provider to the customer) on Business to Consumer or Business to Business type calls.

In summary, what I am suggesting is that the burden on processing the various call/contact types belongs with BOTH, the business originating such communications and the telephone Network providers. By having both take part of the responsibility, providing for special 'suffix' designated codes, passing these through the telephony network (along with the Caller ID) but ONLY on business telephone lines originating such calls and then programming the various call blocking devices to look for these 'suffix' codes - the recipients of calls will INSTANTLY know what type of call this is and will be able to decide how to and if to respond.

NPRM #27, page 18, Discussion Item
Commission asks for comments on whether AMD technology is responsible for much of the "dead air" consumers encounter and whether restrictions on the use of AMD serve to alleviate the problem.

Answer: Answering machine detection (AMD) is likely contributing largely to the dead air issue. This became a greater problem with the introduction of digital answering machines and digital networks which make it very difficult for the dialer to distinguish an answering machine "voice" from a live voice, and results in "dead air" while the call analysis is taking place. With the technology available today, it is unlikely that this detection can be improved enough to significantly reduce the "dead air".

One possible solution is to require the threshold in the AMD to be set to err on the side of connecting vs. disconnecting. For example, if the dialer cannot determine within the first second whether it is a live call or answering machine, it will assume that it is a live call and connect it to an agent. On the agent side, when they are passed a call that turns out to be an answering machine, they should have the ability to quickly terminate the call or to push a button to play a message. This approach will reduce the amount of dead air, while not significantly impacting the productivity of the call center agent.

NPRM #34, page 22, Discussion Item
Commission asks for comment on whether any circumstances have developed that would justify revisiting the previous conclusion regarding established business relationship exemption and whether the Commission should specify by rule the particular circumstances that would establish the requisite business relationship.

Answer: Consumers with existing business relationships with companies should have the right to not receive solicitations from the company. For example, companies wishing to solicit customers could be required to offer an opt out option. Or, companies could be required to only solicit those customers who have opted in to receive such a communication.

However, companies must maintain the right to contact customers as needed to service or receive payment for exchanges of goods and services that have taken place. For example, any business that lends money or provides service to others, etc. and is seeking to get pre-agreed payment, must be allowed within reasonable calling restrictions (e.g., calling hours) to call consumers on cell phones, at work, etc.

Additionally, certain government-sponsored, life saving or security-related activities should be exempt from opt out requests. For example, if disaster strikes (e.g., 911) and blood is needed, blood banks must be able to canvass all possible sources. However, if the code system described in my response to NPRM #21 is implemented, consumers will know what type of call is coming in and will have the option to not answer. And, the government should have the right to call for various things – e.g., collecting on taxes, alimony, etc.

NPRM #35, page 23, Discussion Item
Commission seeks comment on whether a company is obligated to honor a do-not-call request even when the customer continues to do business with the entity making the solicitations.

Answer: A company should be obligated to honor a do-not-call request as it applies to solicitation for services other than those already transacted between the consumer and the company. However, a company must retain the right to contact the consumer on matters pertaining to transactions that have already occurred – e.g., debt collection.

Aleksander Szlam Bio

Aleksander Szlam is the Chief Strategy Officer of divine, inc. Previously the Chairman of the Board and CEO of eshare communications, Inc. (a corporation he founded as Melita International), Mr. Szlam took the company from a one-employee business operating out of his garage and evolved it into the global leader of intelligent Customer Interaction Management (CIM) solution providers, approaching $100 million in revenues in 1999. The company's first products, built in Mr. Szlam's home, were an auto dialer and an inbound/outbound call management and notification system. As Mr. Szlam completed the "Expedialer" in the summer of 1979, the automated call center industry was born. The Wisconsin Public Service Corporation (WPSC) purchased one of the first systems and, since that day, AT&T, American Express, Digital Equipment Corporation, Citigroup, Sprint, Wal-Mart and thousands of other companies world-wide have used products developed by Mr. Szlam and the eshare family.

Mr. Szlam's personal vision, and the foundation for his business philosophy, is to provide solutions that enhance communications and benefit people around the world. Throughout Mr. Szlam's career, he has been a driving force behind establishing contact center industry standards, including call blending, screen pops, predictive dialing and e-mail management, while building solutions based on innovative technologies and human factors. An active inventor, Mr. Szlam holds about 50 world patents for hundreds of technological inventions and business solutions, including the technology upon which the entire contact center industry is based.

For his efforts as an inventor and entrepreneur, Mr. Szlam was named "Pioneer in the Industry" by *Call Center* magazine in August 1997. He was also named *Inc. Magazine's* 1991 Entrepreneur of the Year, Southern Region, while eshare repeatedly made Atlanta's prestigious "Fast Tech 50" list of growing technology companies. Additionally, in 1996 Mr. Szlam co-authored Predictive Dialing Fundamentals, the definitive guide to the industry's technologies, their applications and usage. Mr. Szlam also is a member of the American Israel Chamber of Commerce, Atlanta Chamber of Commerce, Technology Executive Roundtable, and the Atlanta Jewish Federation. He resides in Atlanta with his family.